

## REMARKS

As a general review, the instant invention relates to a fabric article treating device comprising an interior housing located inside of a fabric article drying appliance and an exterior housing located outside of the fabric article drying appliance. The interior housing and the exterior housing of the fabric article treating device are in communication with one another.

35 U.S.C. § 102 Rejections

Claims 1 - 4, 6 - 13, and 14 - 22 are rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent No. 5,980,583 issued to Staub et al. (hereinafter "Staub et al.") for the reasons of record stated on page 2 of the Office Action.

Applicants respectfully traverse this rejection. Staub et al. purports to relate to a method of manufacturing durable press garments by inserting garments into a tumbling apparatus in a manner to form a tunnel defined by the garments. An atomizer unit positioned on the exterior of the tumbling apparatus discharges a durable press resin through a hole in the door of the tumbling apparatus. [see Staub et al. column 2, lines 40 - 45, and column 5, lines 12 - 16].

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." M.P.E.P. § 2131 citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Staub et al. does not disclose either expressly or inherently a fabric article treating device having an interior housing located inside of a fabric article drying appliance. Nor does Staub et al. teach a fabric article treating device having an interior housing located inside of a fabric article drying appliance and an exterior housing located outside of a fabric article drying appliance wherein the interior housing of the fabric article treating device is in communication with the exterior housing of the fabric article treating device.

Hence, as Claims 1 - 4, 6 - 13, and 14 - 22 of the present invention are not anticipated by Staub et al., Applicants respectfully request reconsideration and withdrawal of this rejection.

35 U.S.C. § 103 Rejections

Claims 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Staub et al. as applied to Claim 1 and further in view of U.S. Patent No. 4,891,890 issued to Church for the reasons of record stated at pages 2 and 3 of the Office Action. Claims 13 and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Staub et al. as applied to Claim 1 and further in view of U.S. Patent No. 6,473,563 issued to Pletcher et al. (hereinafter "Pletcher et al.") for the reasons of record stated on page 3 of the Office Action. Applicants respectfully traverse these rejections.

"In order to establish a *prima facie* case of obviousness, three basic criteria must be met: First, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine

reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure (emphasis added)." M.P.E.P. §2142 citing *In re Vacek*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

"The initial burden is on the Examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." M.P.E.P. §2142 citing *Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985).

The Office Action does not meet the initial burden of showing that the prior art either expressly or impliedly suggests the claimed invention as required by M.P.E.P. §2142. With regard to the obviousness rejection of Claim 5 over Staub et al. in view of Church, the Church reference purports to relate to a sprayer device attached to the inside of a tumble dryer for spraying fluid in the tumble dryer. [See Church, column 2, lines 53 - 62]. Neither Staub et al., Church, or Staub et al. in view of Church teach or suggest a fabric article treating device having an interior housing located inside of a fabric article drying appliance and an exterior housing located outside of a fabric article drying appliance wherein the interior housing of the fabric article treating device is in communication with the exterior housing of the fabric article treating device.

Hence, as Staub et al. in view of Church does not teach or suggest all the claim limitations nor does the combination of these references provide any teaching or suggestion to make the invention of Claim 5, the obviousness rejection of this claim cannot stand. Applicants respectfully request reconsideration and withdrawal of this rejection.

With regard to the obviousness rejection of Claims 13 and 23 over Staub et al., in view of Pletcher et al., the Pletcher et al. reference purports to relate to a method and apparatus for inducing electric charge onto home care formulations. The Office Action on page 3 states that "*Pletcher et al. teaches electrically charging a benefit composition that is sprayed onto fabric*". Applicants respectfully disagree with this as Pletcher et al. does not disclose either expressly or impliedly utilizing an electrically charged liquid to treat fabric. Furthermore, Pletcher et al. does not disclose expressly or impliedly utilizing an electrically charged liquid to treat fabric in a clothes drying appliance. Yet further, neither Staub et al. nor Pletcher, teach a fabric article treating device having an interior housing located inside of a fabric article drying appliance and an exterior housing located outside of a fabric article drying appliance wherein the interior housing of the fabric article treating device is in communication with the exterior housing of the fabric article treating device.

Hence, as Staub et al. in view of Pletcher et al., do not teach or suggest all the claim limitations nor does the combination of these references provide any teaching or suggestion to make the invention of Claims 13 and 23 of Applicants' instant application, the rejection of Claims 13 and 23 cannot stand. Applicants respectfully request reconsideration and withdrawal of this rejection.

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F&HC PATENT DIVISION

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**SUMMARY**

This is responsive to the Office Action dated June 2, 2004. Applicants hereby petition for a one month extension of time to respond to this Action. Please charge any fees associated with this response to Deposit Account No.: 16-2480. As the rejections under 35 U.S.C. §102 and §103 have been overcome, Applicants respectfully request these rejections be withdrawn and the claims allowed.

Respectfully submitted,  
FOR: HEILMAN ET AL.;

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